IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH: AT HYDERABAD.

WEDNESDAY, THE THIRTIETH DAY OF MARCH, TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

W.A.No.524 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 15-2-2005 in W.P.No.2192 of 2005 on the file of the High Court)

Between:

S.Malla Reddy, S/o Peddi Reddy, Athivaladinne, Peddapappur Mandal, Ananthapur District.

APPELLANT

And

1. M.Vijayalakshmi, w/o Eswara Reddy, F.P. shop Dealer, Athiralladinne, Peddapappur Mandal, Ananthapur District.
2. Joint Collector, Ananthapur District, Ananthapur.
3. The Revenue Divisional Officer, Ananthapur, Ananthapur District.
4. The Mandal Revenue Officer, Peddapappur Mandal, Ananthapur District.

RESPONDENTS.

Counsel for the appellant : Mr.K.Srinivas.

Counsel for the respondent No.1 : Mr.K.Sitaram

Counsel for respondents 2 to 4 : Govt. Pleader for Civil Supplies.

The Court at the stage of admission made the following:

ORAL ORDER: (per the Hon'ble the Chief Justice)

Card-holder has filed this appeal against the order of learned single Judge allowing the writ petition of the first respondent and thereby staying the order of cancellation of dealership pending disposal of appeal before the Joint collector.

We have heard the counsel for the parties.

Writ petitioner was appointed dealer of fair price shop of Athiralladinne Village, Ananatapur District. On 10th July, 2004, show cause notice was issued on three charges saying that the fair price shop dealer had diverted 156 kgs of rice to black market for pecuniary gains and deprived benefits to the poor card holders. For these three charges, she was directed to explain as to why the fair price shop dealership should not be suspended. The authorization was suspended during pendency of enquiry on 2nd August, 2004. Aggrieved by the said order, appeal was preferred by the writ petitioner and when no interim orders were passed,

W.P.No.14030 of 2004 was filed. The said Writ Petition was disposed of directing that pending the appeal, writ petitioner shall continue to function as fair price shop dealer. In the meanwhile, some enquiry was conducted by the Mandal Revenue Officer and submitted his report on 27th September, 2004 not only against the three charges but also reporting further irregularities. The Revenue Divisional Officer, Anantapur concluded, after going through the report of enquiry, that it was proved beyond doubt that the writ petitioner was doing serious irregularities in distribution of essential commodities to the card holders which needs rigorous punishment and proceeded to pass order of cancellation of authorization forthwith in the interest of Public Distribution System. Against this order, appeal was preferred by the writ petitioner before the Joint Collector. Again when no interim order was passed therein, W.P.No.2192 of 2005 was filed, which was allowed by learned single Judge with direction that during the pendency of appeal, writ petitioner shall be entitled to function as fair price shop dealer since prima facie, the show cause notice itself was bad.

The aforementioned facts are not in dispute and it is also not in dispute that no show cause notice was ever served on the writ petitioner calling upon the writ petitioner that for the charges levelled against her, why her authorization be not cancelled. This aspect of the matter was taken notice of by learned single Judge. The relevant Distribution Order itself requires issuance of show cause notice to the fair price shop dealer in case for any reason, the authorization is sought to be cancelled. In other words, the authorization cannot be cancelled without following the principles of natural justice, which includes issuance of show cause notice mentioning therein the various charges on which the authorization is sought to be cancelled, calling upon the fair price shop dealer to submit his/her explanation to the show cause notice and then holding an enquiry and passing appropriate orders after hearing the fair price shop dealer. In the instant case, no show cause notice was issued for cancellation of the authorization. The show cause notice issued was only for suspension pending enquiry. Therefore, on that basis, further action for cancelling the authorization could not have been taken without following the procedure established in law and for that reason, the order of cancellation is rendered bad in law. There will be no need for the Joint Collector to take up the appeal before him since the order of cancellation is to be set aside having been passed without following the principles of natural justice.

Accordingly, we allow the appeal, set aside the order passed by the Revenue Divisional Officer on 24-1-2005 thereby directing that the respondents shall issue fresh show cause notice in accordance with law to the writ petitioner and proceed further in the matter strictly in accordance with law. Till the matter is heard and decided, the order in W.P.No.2192 of 2005 shall continue to remain in operation. Consequently, the appeal filed before the Joint Collector is rendered infructuous.

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DEVINDER GUPTA, CJ

30-3-2005

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B.SESHASAYANA REDDY, J

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To

1. The Joint Collector, Ananthapur District, Ananthapur.

2.

3. The Revenue Divisional Officer, Ananthapur, Ananthapur District.

4. The Mandal Revenue Officer, Peddapappur Mandal, Ananthapur District.

5. 2 CCs to the Govt. Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT).

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